

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.1340 of 1995
Date of Decision. 21.09.2010**

National Insurance Company Ltd. Abhohar having its regional office in Sector 35, Chandigarh through Sh. R.C. Gupta, Law Officer, duly constituted attorney

.....Appellant

Versus

Bimla Devi widow of Kharati Lal and others

.....Respondents

Present: Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the appellant.

None for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

-.-

K. KANNAN J.(ORAL)

1. The insurance company is challenging the award on the issue of liability. At the trial, report of the licensing authority was produced to the effect that the particular licence No.6739 said to have been issued in the name of the driver had in fact been issued in the name of some other person and not in the name of the driver of the offending vehicle. The Tribunal, on examining the document observed that the licence of the driver bore the date of issue on 7.10.1987 and the report brought from the licensing authority, therefore, was not a proper verification of the particular date on which the licence of the driver had been issued. Even without

joining on the issue of discrepancy, I am still not convinced that the insurer had discharged the burden of proof effectively enough. A communication from the licensing authority that the particular licence was verified, cannot be taken at its face value and it has to be established before the Tribunal through appropriate evidence by summoning the original register and getting a witness connected with the document to speak about the entry. The insurer cannot be said to have discharged the burden of proof properly and I would hold the insurer liable not merely to satisfy the claim of the claimants but also to indemnify the insured.

2. The award is confirmed and the appeal is dismissed.

(K.KANNAN)
JUDGE

September 21, 2010
Pankaj*